

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

United States of America)
ex rel. Daniel Coleman #N84660,)
)
 Petitioner,)
)
)
 v.) No. 08 C 660
)
)
Donald A. Hulick, Warden,)
)
)
 Defendant.)

MEMORANDUM ORDER

This memorandum order is issued to correct errors in this Court's April 10, 2008 memorandum order that responded to our Court of Appeals' transfer to this District Court of the motion by Daniel Coleman ("Coleman") to proceed on appeal in forma pauperis. Quite apart from that order's mistaken application of Martin v. United States, 96 F.3d 853, 856 (7th Cir. 1996) to require Coleman to pay appellate filing fees in conjunction with his appeal from the dismissal of his 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus, this Court's determination that the Petition was frivolous in the legal sense called for a certification that the appeal has been taken in bad faith. Under Moran v. Sondalle, 218 F.3d 647, 651-52 (7th Cir. 2000) (per curiam) that would call for a revocation of any previously-granted in forma pauperis status (accord, Tolefree v. Cudahy, 49 F.3d 1243, 1244 (7th Cir. 1995)).

In this instance Coleman had not been granted in forma

pauperis status in this District Court, because he had paid the modest \$5 filing fee at this level. But the teaching of Moran would appear to be that this Court should not approve the granting of such status on appeal, and it so holds. This recognizes, of course, that the ultimate determination in this respect is for the Court of Appeals to make.



Milton I. Shadur
Senior United States District Judge

May 5, 2008